

EX PARTE OR LATE FILED



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April 6, 2004

APR - 6 2005

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

ORIGINAL

Federal Communications Commission
Office of Secretary

Re: CC Docket Numbers: 96-45; 98-171; 90-571; 92-237; 99-200; 95-116 and 98-170

Dear Chairman Martin:

Congratulations on your appointment as the Chairman of the Federal Communications Commission (FCC). The Keep USF Fair Coalition represents the interests of millions of consumers in the disability, minority, rural, consumer and senior communities. On behalf of the millions of consumers represented by our nineteen national member- and supporter-organizations, and on behalf of our more than 68,000 individual members, we urge you to oppose a change in Universal Service Fund (USF) collection methodology from a "revenue-based" contribution to a flat fee "subscriber" model. Our main concern is the negative implications this plan would have for our collective membership.

The Keep USF Fair Coalition has already submitted a proposal to the FCC known as the "Fair Share Plan" (enclosed), which achieves the goals of ensuring a sustainable and sufficient Universal Service Fund while minimizing the impact on low-volume, low income consumers. As you continue to review proposals to change the way the FCC collects the USF, we urge you to consider the "Fair Share Plan".

The "Fair Share Plan" suggests expanding the USF contribution base to include all revenues derived from telecommunications, including services using Voice over the Internet Protocol (VoIP) technology. It would establish a contribution factor cap to be applied to the revenue-based approach; carriers would still be assessed based on revenues up to that cap amount, and would still have the right to charge their end users a USF recovery charge not to exceed the percentage they are charged. The balance of the funds needed to support USF would come from a numbers-based charge.

To date, more than 70,000 consumers have filed comments with the FCC opposing the flat-fee, numbers-based proposal. We know you will consider their concerns, and not jeopardize the affordability and accessibility of voice services. The Keep USF Fair Coalition respectfully urges you to reject the unfair "subscriber" flat-fee proposal, since it asks all phone subscribers to pay the same amount, regardless of usage.

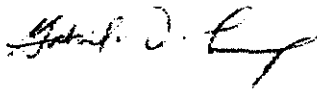
The Keep USF Fair Coalition thanks you for your leadership. We look forward to working with you in support of policies that keep the current USF system fair for all. Please contact our Coalition co-chair Gabriela Lemus, Director of Policy and Legislation of the League of United Latin American Citizens at (202) 833-6130, if you have any questions concerning the Keep USF Fair Coalition or the "Fair Share Plan".

Sincerely,

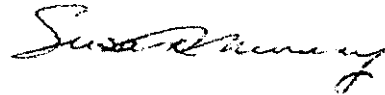
Keep USF Fair Coalition

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Keep USF Fair Coalition



Gabriela D. Lemus, PhD.
Director of Policy and Legislation
League of United Latin American Citizens
2000 L Street, NW, Suite 610
Washington, DC 20036



Susan Murany
Executive Director
The Gray Panthers
733 - 15th Street NW, Suite 437
Washington, DC 20005

Larry Mitchell
CEO
American Corn Growers Association
1730 M Street NW, Suite 911
Washington DC 20036

Mr. Richard J. Fiesta
Director of Government and Political Affairs
Alliance for Retired Americans
888 16th Street, NW, Suite 520
Washington, DC 20006

Melanie Brunson
Executive Director
American Council of the Blind
1155 15th Street, NW, Suite 1004
Washington, DC 20005

Andrew J. Imparato
President and CEO
American Association of People with
Disabilities
1629 K. Street, NW, Suite 503
Washington, DC 20006

Linda Sherry
Editorial Director
Consumer Action
PO Box 1762
Washington, DC 20013

Joe Leonard
Executive Director
Black Leadership Forum
P.O. Box 34506
Washington, DC 20043-4506

Leroy Watson
Legislative Director
National Grange of the Order of Patrons of
Husbandry
1616 H. Street, NW
Washington, DC 20006-4999

Kelby Brick
National Association of the Deaf
814 Thayer Avenue
Silver Spring, Maryland 20910-4500

Dirck A. Hargraves
Counsel
Telecommunications Research and Action Center
Post Office Box 27279
Washington, DC 20005

Joe Byrd
President
National Native American Chamber of
Commerce
601 Pennsylvania Avenue, NW, North Building
Suite 407
Washington, DC 20004-2601

Anthony Tusler
Coordinator, Technology Policy Division
World Institute on Disability
510 16th Street, Suite 100
Oakland , California 94612

Dan Phythyon
Public Policy Director
Alliance for Public Technology
919 18th St, Suite 900
Washington, DC 20006

Enclosure

cc: Secretary Marlene H. Dortch
Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein

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Before the Federal Communications Commission
Washington, DC 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
1998 Biennial Regulatory Review - Streamlined)	CC Docket No. 98-171
Contributor Reporting Requirements Associated)	
with Administration of Telecommunications)	
Relay Service, North American Numbering)	
Plan, Local Number Portability, and Universal)	
Service Support Mechanisms)	
)	
Telecommunications Services for Individuals)	CC Docket No. 90-571
With Hearing and Speech Disabilities, and the)	
American Disabilities Act of 1990)	
)	
Administration of the North American Numbering)	CC Docket No. 92-237
Plan and North American Numbering Plan)	NSD File No. L-00-72
Cost Recovery Contribution Factor and Fund Size)	
)	
Number Resource Optimization)	CC Docket No. 99-200
)	
Telephone Number Portability)	CC Docket No. 95-116
)	
Truth-in-Billing Format)	CC Docket No. 98-170

Ex Parte Comments

The following organizations jointly provide these Ex Parte comments addressing a proposal to sustain the Federal Universal Service Fund:

I. Statements of Interest

Alliance for Retired Americans (ARA)'s mission is to ensure social and economic justice and full civil rights for all citizens so that they may enjoy lives of dignity, personal and family fulfillment and security. The Alliance believes that all older and retired persons have a responsibility to strive to create a society that incorporates these goals and rights and that retirement provides them with opportunities to pursue new and expanded activities with their unions, civic organizations and their communities. A primary objective of the Alliance is to enroll and mobilize retired union members and other senior and community activists into a nationwide grassroots movement advocating a progressive political and social agenda-one that respects work and strengthens families. It is the issue of economic disparity that prompted ARA to join the Keep USF Fair Coalition, and to join as a signatory on this *Ex Parte* filing.

American Corn Growers Association (ACGA) is the leading progressive corn organization working to ensure corn producers a fair and equitable price for the commodities they produce while implementing alternative programs to help these producers realize other revenue streams to ensure continued economic strength. Several of our programs include - "Wealth from the Wind," "Alliance for Rural America," and "Farmer-Choice, Customer First" - are designed to educate our members as well as businesses to the opportunities available to farmers and ranchers throughout the country. ACGA is concerned that its members, who are active in their towns and states, are able to increase their competitive edge through gaining much needed advanced telecommunication services.

American Council of the Blind (ACB), founded in 1961, is the nation's leading membership organization of blind and visually impaired people. ACB, through its 51 state and regional affiliates and 20 national special interest and professional affiliates,

strives to improve the well-being of all blind and visually impaired people by: serving as a representative national organization of blind people; elevating the social, economic and cultural levels of blind people; improving educational and rehabilitation facilities and opportunities; and encouraging and assisting all blind persons to develop their abilities and conducting a public education program to promote greater understanding of blindness and the capabilities of blind people.

American Association of People with Disabilities (AAPD) is the largest national nonprofit cross-disability member organization in the United States, dedicated to ensuring economic self-sufficiency and political empowerment for the more than 56 million Americans with disabilities. AAPD works in coalition with other disability organizations for the full implementation and enforcement of disability nondiscrimination laws, particularly the Americans with Disabilities Act (ADA) of 1990 and the Rehabilitation Act of 1973.

Black Leadership Forum (BLF) is a nonprofit advocacy organization working to promote creative and coordinated Black Leadership, to empower African Americans to improve their own lives and to expand their opportunities to fully participate in American social, economic and political life.

Consumer Action (CA) is a San Francisco-based education and advocacy organization that has worked on telephone, banking and privacy issues for more than 30 years. Consumer Action works through a national network of more than 6,500 community-based organizations that serve low and moderate-income consumers, recent immigrants and people of color.

Grange of the Patrons of Husbandry (the Grange) is the oldest general farm and rural public interest organization in the United States. Founded in 1867, today the Grange members are affiliated with 3000 local, county and state Grange chapters across the country. More than 70% of all local Grange chapters are located in communities of 2500 persons or less. A major purpose of the USF is to help rural areas achieve parity in

telecommunication standards that is comparable to the more densely populated metropolitan areas of the United States. The National Grange also believes that full and fair competition is the only way to provide state-of-the-art telecommunications services to rural populations, especially those contained within the "last mile."

Gray Panthers is an inter-generational advocacy organization with over 40,000 activists working together for social and economic justice.

League of United Latin American Citizens (LULAC) is the largest and oldest Hispanic Organization in the United States, with approximately 115,000 members throughout the United States and Puerto Rico. LULAC advances the economic condition, educational attainment, political influence, health and civil rights of Hispanic Americans through community-based programs operating at more than 600 LULAC councils nationwide.

National Association on the Deaf (NAD) The mission of the NAD is to promote, protect, and preserve the rights and quality of life of deaf and hard of hearing individuals in the United States of America. The purpose of the NAD Law and Advocacy Center (LAC) is to educate, advocate, and litigate on behalf of and to empower deaf and hard of hearing people. The NAD LAC advocates on legislative and public policy issues of concern to the deaf and hard of hearing community, particularly at the federal level, and often in collaboration with other disability related organizations. The issues are broad: captioning, communication, education, employment, emergency preparedness, health care, rehabilitation, security, technology, telecommunications, and transportation.

National Native American Chamber of Commerce (NNACC) promotes job creation; economic growth; sustainable development and improved living standards for Tribal Nations, Native Americans, and Native American businesses. Additionally, NNACC serves as an advocate for Native American communities and businesses as well as a resource for consumers and businesses dedicated to serving both the needs of our

members and the economic development needs of the broader Native American community.

Telecommunications Action & Research Center (TRAC) was founded in 1983 to promote and advocate for the interests of residential telecommunications customers. TRAC has, for almost 20 years, been conducting studies and publishing charts to aid consumers in choosing the correct and most efficient service for their calling needs. TRAC publications have been featured in and quoted by a broad range of both local and national media including The New York Times, The Washington Post, Kiplinger Magazine, Good Housekeeping, Communications Daily, CNN, and the major television networks and their affiliates.

World Institute on Disability (WID) is a nonprofit public policy center that is dedicated to promoting the civil rights and full societal inclusion of people with disabilities. Since it was founded in 1983 by Ed Roberts, Judy Heumann and Joan Leon, WID has earned a reputation for high quality research and public education on a wide range of issues. The Board of Directors and staff, over half of whom are people with disabilities, are respected national leaders in the disability field as well as in industry, government and social services. This enables WID to bring a cross-disability perspective to the policy arena. WID's innovative personnel policies are national models of affordable reasonable accommodation, including personal assistance, adaptive technology and flexible work scheduling.

II. Comments

The Federal Communications Commission is considering proposals to change the manner in which telecommunications carriers contribute to the Universal Service Fund. The undersigned organizations represent the interests of millions of residential consumers of all races, ethnicities, abilities and circumstances. We express our strong opposition to proposals that would replace the current USF collection system based on carrier revenues with a methodology based on working telephone numbers or network connections. It is

our view that numbers-based or connections-based methodologies will impose a disproportionate responsibility for funding the Universal Service Fund on those least able to do so – low-volume, elderly, rural, minority, disabled, and low-income residential consumers, including those our organizations represent.

We appreciate the challenge the Commission faces in ensuring that the Universal Service Fund remains solvent and remains sufficient to ensure affordable telecommunications service to all Americans. We note that other Commenters and the Commission's staff have found that a numbers-based or connection-based methodology " ... would shift much of the responsibility for USF funding from business users to residential users, and would increase USF rates for many average-use and low-use residential customers."¹

We believe the record before the Commission can support adopting a "Fair Share Plan," which is a modified version of a plan submitted by Mr. Billy Jack Gregg, Director of the West Virginia Consumer Advocate Division. He calls his proposal the "50-50 Plan." The 50-50 Plan proposes a flat number fee with a revenue based component. We believe the 50-50 Plan is creative and moves in the right direction. While the proposed change would address the issue of sustaining the Fund, it would still adversely affect low-income, rural, residential and low-volume long distance consumers. The proposed change would levy 50% of fees on a per connection basis, and the additional 50% on revenue basis.

Fee collection that is more heavily based on usage is a fairer and more equitable funding mechanism than the 50-50 proposal. The Communications Act of 1934 mandates that the universal service be funded in a manner that is equitable and nondiscriminatory, and that is competitively neutral. While the 50-50 Plan proposed by

¹ See Comments of Consumers Union, Texas Office of Public Utility Counsel, Consumer Federation of America, Appalachian People's Action Coalition, Center for Digital Democracy, Edgemont Neighborhood Coalition and Migrant Legal Action Program at page I (April 22, 2002). See also Projected Assessments under Proposal 2 of Connection-Based Methodology published in Federal Communications Commission Public Notice FCC 03-31, *Commission Seeks Comment On Staff Study Regarding Alternative Contribution Methodologies*, February 26, 2003.

Mr. Gregg represents a compromise between the currently used revenue-based methodology and a "flat" methodology based on either working telephone numbers or network connections, that proposal would not comply with the requirement that the contribution methodology be equitable and nondiscriminatory since it would require low-volume users to contribute at the same level as high-volume users at least 50% of the time. In our view, the 50-50 proposal can be adjusted to achieve the goals of ensuring a sustainable and sufficient Universal Service Fund while minimizing the impact on low-volume, low income consumers.

Here is what we propose and why:

- Expand the USF contribution base to include all revenues derived from telecommunications, including services provided using Voice over the Internet Protocol (VoIP) technology. This expansion, permissible under the Communications Act, would increase the contribution base and would hold revenue-based contribution factor at a reasonable levels.
- Establish a contribution factor cap to be applied to the revenue-based approach, *e.g.*, between 12 and 15 percent of revenues derived from interstate telecommunications (including VoIP) (the contribution factor for 1st quarter 2005 is 10.7%).
- Carriers would still be assessed based on revenues up to that cap amount, and would still have the right to charge their end users a USF recovery charge not to exceed the percentage they are charged.
- The balance of the funds needed to support USF would come from a numbers-based charge. Thus, the numbers component would not recover one-half of the total USF, but would only recover the residual amount needed above the amount recovered from a capped revenues-based system.

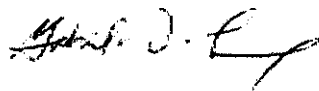
- Under such a plan, the per-number assessments on carriers assigning numbers (e.g., local exchange carriers and wireless companies) and ultimately on their customers would be relatively low.
- The plan would be fairer to those low income users who make fewer interstate calls. They would still be subject to flat assessments for their wireline and wireless telephone numbers, but the level of those assessments would be measured in cents, not the \$1.00 or more anticipated under a pure telephone number-based plan.

We know that this filing does not quantify the actual savings this plan will have for consumers compared to a numbers or network based plan. We believe such a calculation could easily be made by the Commission staff based on publicly available information. It is our hope to supplement the record with our own calculations. Given limited time and resources, we wanted to first lay out the conceptual basis for this pro-consumer approach to a compromise position. It is our belief that millions of dollars of consumer dollars are at stake – dollars from consumers who don't make calls or make few calls in a month and who are least able to afford the additional cost.

III. Conclusion

In summary, we believe that radical changes to the revised contribution methodology may have unintended negative consequences on low-income and low volume residential consumers. Maintaining a revenue based collection methodology with a contribution factor cap with residual funds collected based on a numbers plan is the best available option to ensure the continued viability of the Universal Service Fund.

Respectfully submitted by the undersigned,



Gabriela D. Lemus, PhD.
Director of Policy and Legislation
League of United Latin American
Citizens
2000 L Street, NW, Suite 610
Washington, DC 20036



Susan Murany
Executive Director
The Gray Panthers
733 - 15th Street NW, Suite 437
Washington, DC 20005

Larry Mitchell
CEO
American Corn Growers Association
1730 M Street NW, Suite 911
Washington DC 20036

Mr. Richard J. Fiesta
Director of Government and Political Affairs
Alliance for Retired Americans
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Andrew J. Imparato
President and CEO
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Linda Sherry
Editorial Director
Consumer Action
PO Box 1762
Washington, DC 20013

Joe Leonard
Executive Director
Black Leadership Forum
P.O. Box 34506
Washington, DC 20043-4506

Leroy Watson
Legislative Director
National Grange of the Order of
Patrons of Husbandry
1616 H. Street, NW
Washington, DC 20006-4999

Kelby Brick
National Association of the Deaf
814 Thayer Avenue
Silver Spring, Maryland 20910-4500

Dirck A. Hargraves
Counsel
Telecommunications Research and
Action Center
Post Office Box 27279
Washington, DC 20005

Joe Byrd
President
National Native American Chamber of
Commerce
601 Pennsylvania Avenue, NW, North Building
Suite 407
Washington, DC 20004-2601

Anthony Tusler
Coordinator, Technology Policy
Division
World Institute on Disability
510 16th Street, Suite 100
Oakland, California 94612